

ORDINANCE NO. 260

ORDINANCE GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE TO USE FOR TRANSMITTING AND DISTRIBUTING GAS WITHIN THE CITY OF LODI FOR ANY AND ALL PURPOSES OTHER THAN THOSE AUTHORIZED UNDER SECTION 19 OF ARTICLE XI OF THE CONSTITUTION OF THE STATE OF CALIFORNIA AS SAID SECTION EXISTED PRIOR TO ITS AMENDMENT ON OCTOBER 10, 1911. ALL GAS PIPES AND APPURTENANCES WHICH ARE NOW OR MAY HEREAFTER BE LAWFULLY PLACED IN THE PUBLIC STREETS, WAYS AND PLACES WITHIN SAID CITY, AND TO LAY AND USE IN SAID PUBLIC STREETS, WAYS AND PLACES ALL PIPES AND APPURTENANCES NECESSARY OR PROPW FOR SAID PURPOSES.

The City Council of the City of Lodi
does ordain as follows:

Section 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions (unless, in the given instance, the context wherein they are used shall clearly import a different meaning) :

(a) The word "grantee" shall mean the corporation to which the franchise contemplated in this ordinance is granted and its lawful successors or assigns;

(b) The word "city" shall mean the City of Lodi, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or re-incorporated form;

(c) The word "streets" shall mean the public streets, ways, alleys and places as the same now or may hereafter exist within said city;

(d) The word "gas" shall mean natural or artificial gas, or a mixture of natural and artificial gas;

(e) The phrase "pipes and appurtenances" shall mean pipes, pipelines, mains, services, traps, vents, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, appurtenances and any other property located or to be located in, upon, along, across, under or over the streets of the city, and used or useful in the transmitting and/or distributing of gas;

(f) The phrase "lay and use" shall mean to lay, construct, erect, install, operate, maintain, use, repair or replace.

(g) The phrase "constitutional franchise" shall mean the right acquired through acceptance by said grantee or its predecessor in estate of the offer contained in the provisions of Section 19 of Article XI of the Constitution of the State of California, as said section existed prior to its amendment on October 10, 1911.

Section 2, The franchise (a) to use, for transmitting and distributing gas within the City of

~~Lodi~~ for any and all purposes other than those authorized under said constitutional franchise, all ~~gas~~ pipes and appurtenances which now are or may hereafter be lawfully placed in the streets within said city, and (b) to lay and use in said streets all pipes and appurtenances necessary or proper for said purposes, is hereby granted to Pacific Gas and Electric Company upon the terms and conditions set forth in the Franchise Act of 1937.

Section 3. Said franchise shall be indeterminate, that is to say, said franchise shall endure in full force and effect until the same shall, with the consent of the Railroad Commission of the State of California, be voluntarily surrendered or abandoned by the grantee, or until the state or some municipal or public corporation thereunto duly authorized by law shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain, all property actually used and useful in the exercise of said franchise and situate in the territorial limits of the state, municipal or public corporation purchasing or condemning such property, or until said franchise shall be forfeited for noncompliance with its terms by the grantee.

Section 4. The grantee of said franchise shall during the term thereof pay to said city a sum annually which shall be equivalent to two per cent of the

gross annual receipts of said grantee arising from the use, operation or possession of said franchise; provided, however, that such payment shall in no event be less than a sum which shall be equivalent to one per cent of the gross annual receipts derived by grantee from the sale of gas within the limits of such city under said franchise and said constitutional franchise.

Section 5. The grantee shall file with the clerk of said city, within three months after the expiration of the calendar year, or fractional calendar year, following the date of the granting hereof, and within three months after the expiration of each and every calendar year thereafter, a duly verified statement showing in detail the total gross receipts of such grantee during the preceding calendar year, or such fractional calendar year, from the sale of gas within said city. Such grantee shall pay to said city within fifteen days after the time for filing such statement, in lawful money of the United States, the aforesaid percentage of its gross receipts for such calendar year, or such fractional calendar year, covered by such statement. Any neglect, omission or refusal by said grantee to file such verified statement, or to pay said percentage at the time and in the manner specified, shall be grounds for the declaration of a forfeiture of this franchise and of all rights of grantee hereunder,

Section 6. This franchise is granted under and in accordance with the provisions of said Franchise Act of 1937.

Section 7. This ordinance shall become effective thirty days after its final passage, unless suspended by a referendum petition filed as provided by law.

Section 8. The grantee of said franchise shall pay to the city a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting thereof; such payment to be made within thirty days after the city shall have furnished such grantee with a written statement of such expenses.

Section 9. The franchise granted hereby shall not become effective until written acceptance thereof shall have been filed by the grantee with the City Clerk.

Section 10. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in THE LODI TIMES a newspaper of general circulation published and circulated in said city.

First read at a regular meeting of the City Council of said city held on the 6th day of December 1939, and finally adopted and ordered published at a regular meeting of said Council held on the 20th day of December, 1939, by the following vote:

AYES: Councilmen GRAFFIGNA, WEINE, CLARK, SPOONER
AND MAYOR STEELE.

NOES: Councilmen NONE

ABSENT: Councilmen NONE.



G. M. Steele
Mayor of the City of
Lodi.

ATTEST:

J. F. Beasley
City Clerk of the City of
Lodi.